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HAND DELIVERED

November 14, 2012

William S. McGraw, Clerk
Merrimack County Superior Court
163 North Main Street
P.O. Box 2880
Concord, NH 03301

**Re: In the Matter of the Liquidation of Noble Trust Company
Docket No. 08-E-0053**

Dear Mr. McGraw:

Enclosed for filing is the Liquidator's Second Interim Status Report.

Sincerely,

John-Mark Turner

Enclosure
cc: Service List

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of Noble Trust Company

Docket No. 08-E-0053

LIQUIDATOR'S SECOND INTERIM STATUS REPORT

Ronald A. Wilbur, Bank Commissioner for the State of New Hampshire, as duly appointed Liquidator (the "Liquidator") for Noble Trust Company ("Noble Trust"), by his attorneys, the Office of the Attorney General and Sheehan Phinney Bass + Green, Professional Association, in connection with the above-captioned proceeding and the numerous proceedings relating thereto, respectfully submits this Status Report in advance of the November 20, 2012 scheduled status conferences, to provide the Court with a summary and status of the pending proceedings.

Background

In 2003, Noble Trust was organized and chartered under the laws of the State of New Hampshire as a non-depository banking corporation, and subject to regulation by the New Hampshire Banking Department (the "Banking Department").

As a result of irregularities discovered by the Banking Department's 2008 examination of Noble Trust, on February 11, 2008, Commissioner Peter Hildreth commenced a liquidation proceeding by filing a Verified Petition for Liquidation (the "Liquidation Petition") in this Court, seeking the appointment of a liquidator for Noble Trust pursuant to RSA 395:1, as well as related injunctive relief against Noble Trust pending the Court's ruling on the Liquidation Petition (the "Liquidation Proceeding").

On March 27, 2008, this Court entered an order (the "Liquidation Order") appointing Commissioner Hildreth as liquidator of both Noble Trust and its parent company, Aegean Scotia. The Liquidator is the duly appointed successor liquidator of Noble Trust and Aegean Scotia by order of this Court dated March 28, 2012.

On or about April 24, 2009, the Liquidator brought a Petition for Accounting, Rescission, Restitution, and Damages With Jury Trial Demand, against certain former officers, directors, and accountants associated with Noble Trust alleging a variety of theories of recovery. See Hildreth v. Colin P. Lindsey, et al., Docket No. 2009-EQ-00184 (the "Director and Officer Action").

By Writ dated June 22, 2009, the Liquidator brought suit against Michael Walsh, a former outside auditor of Noble Trust alleging negligence. See Hildreth v. Michael J. Walsh d/b/a Walsh & Co., Docket No. 2009-CV-00323 (the "Walsh Action").

In early 2010, the Liquidator brought suits against a number of individuals who received fraudulent conveyances from Noble Trust, or are otherwise indebted to Noble Trust. See Hildreth v. Cecil Sweeney, et al., Docket No. 2010-EQ-00034 (the "Sweeney Action"); Hildreth v. Gerald Marino, et al., Docket No. 2010-CV-00175 (the "Marino Action"); Hildreth v. James M. Coull, Docket No. 2010-CV-00185 (the "Coull Action"); and Hildreth v. Clarke, Docket No. 2010-CV-0186 (the "Clarke Action").

On June 21, 2010, the Liquidator filed a proposed plan of liquidation (the "Plan") in the Liquidation Proceeding. The Plan has not been noticed to all creditors or approved by the Court due to the stay imposed in June 2010.

On January 19, 2011, the Court entered orders indefinitely staying the Liquidation Proceeding, the Director and Officer Action, the Walsh Action, the Sweeney Action, the Marino Action, the Coull Action, and the Clarke Action. Subsequently, retired Justice David Sullivan presided over certain aspects of some of those proceedings (and the ANICO proceeding, discussed below).

On October 3, 2011, the Liquidator brought an Emergency Verified Petition for Contempt, Injunctive and Declaratory Relief, against American National Insurance Co. ("ANICO") for violation of the Court's injunction orders (the "ANICO Action"). On December 1, 2011, after briefing and hearings, this Court entered an order ruling that, among other things, the prior injunction orders were valid and binding on ANICO, rendering ineffective ANICO's attempt to lapse certain insurance policies. All remaining ANICO issues (including any unresolved claims raised by ANICO in its responsive pleadings) were to be determined at a subsequent trial after discovery.

Despite the stays, the Liquidator has continued the process of marshaling the assets of Noble Trust in order to maximize the value of the liquidation of Noble Trust for the benefit of creditors. Wherever possible, the Liquidator has engaged in settlement negotiations. In other instances, litigation has been pursued.

Status of Proceedings

- **The Director and Officer Action** Hildreth v. Colin P. Lindsey, et al.,
Docket No. 2009-EQ-00184.
- **The Walsh Action** Hildreth v. Michael J. Walsh d/b/a Walsh
& Co., Docket No. 2009-CV-00323.

The Director and Officer Action and the Walsh Action were commenced in April 2009 and June 2009, respectively. They have not been consolidated, although they involve predominantly common issues. Since that time, the defendants have, individually, filed motions to dismiss the actions, asserting various grounds and legal theories. The Liquidator has filed responses to each pleading. The Liquidator and the defendants also exchanged discovery and, in February 2011, participated in mediation. In all matters, the parties have vigorously defended their positions. As a result of the mediation, the Liquidator and the defendants in the Directors and Officer Action and the Walsh Action reached a settlement. A side issue remains unresolved with defendant Thomas R. Anderson that the Liquidator continues to address. Once this issue is resolved, the Liquidator anticipates filing a motion to approve the settlement that will bring these two proceedings to a close.

- **The Liquidation Proceeding** In the Matter of the Liquidation of Noble Trust Co., Docket No. 2008-EQ-0053

Since early in the Liquidation Proceeding, the Liquidator has engaged in negotiations with numerous parties involved in over one hundred high face value life insurance policies issued to or for the benefit of Noble's clients by seven insurers.¹ For purposes of the November 20 status conference, the Liquidator intends to focus on the matters identified below.

On April 17, 2012, the Liquidator filed a motion to approve a settlement and release agreement with PHL Variable Insurance Company ("Phoenix"). In connection therewith, on the same date, the Liquidator also filed a motion to approve the notice and objection procedures for the hearing on the Phoenix settlement motion. Under the

¹ In addition, there are a number of much smaller annuities issued by several carriers.

Phoenix settlement agreement, Phoenix shall pay approximately \$4.6 million to the Liquidator in exchange for the 45 subject Policies being deemed surrendered, cancelled or otherwise terminated.² The settlement procedures motion was granted on June 29, 2012. A hearing on the Phoenix settlement motion itself has not yet been scheduled.

Three of those 45 Policies are subject to the claims of certain affiliates of Credit Suisse, who claim a security interest in the Policies. Credit Suisse affiliates likewise assert a security interest in nine other policies issued to or for the benefit of Noble clients by ANICO, AXA Equitable Life Insurance Company (“AXA”), and Lincoln National Life Insurance Company (“Lincoln”).³

The Liquidator has conducted extensive settlement discussions with Credit Suisse, AXA, ANICO and Lincoln. Those multi-party discussions, involving myriad, interrelated issues, have been protracted, and occurred both within and outside the mediation context. Still, the Liquidator is finally nearing resolution of the complexities involving the policies and the claims relating thereto, and is exchanging settlement drafts. The Liquidator hopes that as many of the settlements as possible will be finalized before the November 20 status conference. In any event, in order to obtain approval of the anticipated settlements, prior to the status conference, the Liquidator hopes to file a motion to establish the notice procedures, objection deadlines and hearing dates for any such settlements, similar to the procedures already approved for the two Phoenix

² Previously, on July 7, 2009, this Court partially approved a separate settlement agreement between the Liquidator and Phoenix dated as of November 6, 2008, relating to nine other insurance policies. The Court’s order approved the settlement with respect to seven of those nine policies, with the remainder of the settlement being subject to further order of Court. The only objections to the remainder of the 2008 Phoenix settlement have been separately resolved.

³ Not all of the policies issued by AXA and Lincoln are subject to the security interest claims of Credit Suisse.

settlements. Obtaining approval of the notice procedures at the November 20 status conference would represent an important step on the path to resolution.

- **The ANICO Action**

Fleury v. American National Insurance Co., Docket No. 2011-CV-00649.

The Liquidator believes that this matter will likely be resolved by the November 20, 2012 status conference. Because of the status of negotiations, on October 19, 2012, the Liquidator filed a motion to temporarily stay discovery in this proceeding pending ongoing settlement discussions, including the Liquidator's response deadline to ANICO's interrogatories. On October 24, 2012, ANICO filed a motion for conditional default on the grounds that the Liquidator failed to timely respond to ANICO's interrogatories. Objections to both motions have been filed.

- **Stanley Miller**

Stanley Miller has alleged that he is the "General Trustee" of a series of sub-trusts (*i.e.*, the Miller Trusts), formed specifically as vehicles to engage in the payment or refinancing of certain premiums on various life insurance policies that Noble Trust obtained on seven of its individual clients. Stanley Miller has further claimed that Noble Trust transferred its right, title and interest in and to the life insurance policies to the Miller Trusts and, as such, the life insurance policies are his property, in his capacity as trustee of the Miller Trusts. The Liquidator disputes Miller's claims and asserted interest in any of the life insurance policies, all of which were applied for by Noble Trust acting as trustee under trusts that are separate and distinct from the Miller Trusts. The Liquidator asserts that the life insurance policies are properly part of Noble Trust's estate, assets, and that the value of the life insurance policies must be administered for the benefit of Noble Trust creditors.

Notwithstanding these disputes, the Liquidator, Stanley Miller and related parties, including the successor to the premium financier, have engaged in negotiations to settle the matter. The Liquidator is hopeful that a motion to approve a settlement will be filed before the November 20 status conference.⁴

- **The Sweeney Action**

Hildreth v. Cecil Sweeney, et al.,
Docket No. 2010-EQ-00034.

There are 19 defendants in this proceeding. Five separate motions to dismiss have been filed, individually or jointly, by the following defendants: (i) Cecil Sweeney (5/5/2010), (ii) John and Stylanos Sinanis (5/5/2010), (iii) Sharp Enterprises (4/4/2012), (iv) Susan Fry Hare (6/12/2012), and (v) Frank Arnone, Ardith A. Neustaedter, Ivan and Mary Green, Tom and Deeann Langel, Webster Dean, Darwin and Sharon Schweitzer, and Charles Carlson (5/6/2010). Objections by the Liquidator, replies and other responses have been filed. The parties are awaiting rulings from the Court on these five pending motions to dismiss.

Defendant Joseph Mendola has filed an answer. On August 6, 2012, a motion to strike a paragraph of the petition was filed. The Liquidator filed an objection on August 15, 2012. The motion to strike remains pending.

Defendant Kevin Sullivan was defaulted for failure to appear. On August 1, 2012, the Liquidator moved for entry of a final default against Kevin Sullivan. This motion remains pending.

A settlement has been reached with the estate of Marge Sweeney. The Liquidator anticipates filing a motion to approve the settlement with the Court in the upcoming weeks.

⁴ The Miller settlement will also resolve Miller's pending objection to the Liquidator's previous and separate agreement with Phoenix concerning the two remaining policies involved in that settlement.

The only other defendant in the Sweeney Action is Sterling Mortensen. After the Sweeney Action was filed, the Liquidator discovered that Mr. Mortensen had filed a chapter 7 petition in Idaho on December 31, 2008, and had received his discharge in bankruptcy on June 19, 2009. Upon review of Mr. Mortensen's chapter 7 proceeding, a voluntary non-suit was entered with respect to Mr. Mortensen in the Sweeney Action on May 27, 2010.

- **The Marino Action**

Hildreth v. Gerald Marino, et al.,
Docket No. 2010-CV-00175.

By order of this Court dated November 7, 2011, eight of the defendants have been defaulted in this proceeding (450 4th Avenue Revocable Trust, Vernon Morgan, Richard Truesdale, Clifton Marshall, Morgan Marin LLC, Eugenio Gonzalez Cardona, Crest Blue Capital LLC and Luxury Real Estate and Insurance LLC). As a result of the default order, only six defendants remain (Gerald Marino, Walter Groham, Wayne Adams, DP Ramsburg Accounting Service, Troy Jester and John McHale).

On September 9, 2012, the Liquidator filed a motion for final default against Gerald Marino. That motion is pending.

Walter Gorham, Wayne Adams and DP Ramsburg Accounting have all filed *pro se* appearances. On October 29, 2012, the Court entered an order granting a motion to dismiss filed by Wayne Adams. Counsel to the Liquidator has confirmed with the Clerk that this order has been withdrawn, as Mr. Adams failed to serve his motion upon the Liquidator and, in any event, the Court had previously denied a similar motion made by Mr. Adams on January 14, 2011.

The Liquidator has not been able to locate defendants Troy Jester or John McHale.

- **The Coull Action**

Hildreth v. James M. Coull,
Docket No. 2010-CV-00185.

The defendant's motion to dismiss the case was denied by the Court on January 14, 2011. Discovery has been served by the Liquidator, but the action (and the corresponding action in Massachusetts to obtain an attachment against property owned by the defendant) has not proceeded because of the court-ordered stay.

- **The Clarke Action**

Hildreth v. Clarke,
Docket No. 2010-CV-0186.

The defendant has filed a Chapter 7 petition for bankruptcy in the United States Bankruptcy Court for the District of Massachusetts. As a result, this matter is stayed.

- **Ronald P. Kauffman**

In September 2010, the Liquidator commenced an action in Ohio state court against Ronald P. Kauffman, individually, and as Trustee of or through his affiliation with the Kauffman Charitable Remainder Unitrust, asserting a number of claims relating to Kauffman's improper transfer of certain Ohio real property in which Noble Trust holds an interest into his own charitable remainder trust. As a result of the Ohio proceeding, the Liquidator has reached settlements with PNC Bank and the Ohio Attorney General's Office, each of which settlements has, subject to this Court's approval, been approved by the Ohio Court. The Liquidator anticipates finalizing the settlement with Kauffman soon. The Liquidator will then present the Ohio settlements, either independently or jointly (depending on timing), to this Court for final approval.

Respectfully submitted,

Dated: November 14, 2012

RONALD A. WILBUR, BANK COMMISSIONER
OF THE STATE OF NEW HAMPSHIRE, AS
LIQUIDATOR OF NOBLE TRUST COMPANY


By his attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2012, a copy of the foregoing Second Interim Status Report was served upon the parties on the attached service list via first class mail, postage prepaid.



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